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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,162	02/27/2004	Hideki Sadakata	000407.00027	4595
22907	7590	01/19/2006	EXAMINER	
BANNER & WITCOFF 1001 G STREET N W SUITE 1100 WASHINGTON, DC 20001			TRAN, KHOI H	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 01/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/787,162	Applicant(s) SADAKATA ET AL.	
	Examiner Khoi H. Tran	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE 11/28/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

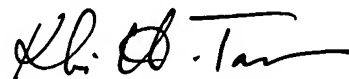
Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.



KHOI H. TRAN

PRIMARY EXAMINER

Attachment(s)

- | | |
|---|---|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____.</p> |
|---|---|

DETAILED ACTION

The request filed on 11/28/2005 for a Request For Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 10/787,162 is acceptable and a RCE has been established. An action on the RCE follows.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-4 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The original specification did not describe how the central processing unit would be able to directly execute a program from a recording portable medium. According to Applicant invention described in the original specification, the central processing is an active device (with a power source) and the portable medium is a passive device (without a power source). It is not known how the transfer program located on the "passive" portable device would be able to be executed directly from its own location without being transferred/copied to the CPU. It is not possible for the CPU 10 to directly execute any programs located on the "passive" portable memory card 20.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, and 4, as best understood, are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ruskin et al. 6,644,495.

Ruskin et al. '495 disclose a software downloading system for a vending machine per claimed invention. The system downloads new or updated operational instructions to the vending machine from a smart card. The smart card inherently comprises memory space for storing the new operational instructions/software. The system also downloads data from previous operations onto the smart card. The vending machine comprises a central processing unit that executes an inherent operation data transfer program from the card (i.e. ".exe." program), which is stored in advance in said smart card, to thereby transfer the operation data from the vending machine to the smart card or transfer the operation data from the smart card to the vending machine. It is at least obvious, if not inherent, that the central processing unit directly accesses the memory space on said card to execute the operational data transfer program from the portable card.

5. Claims 1 and 4, as best understood, are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Matsumoto et al. 6,498,965.

Matsumoto et al. '965 disclose software-downloading system for a vending machine per claimed invention. The system downloads new or updated operational instructions to the vending machine from a portable memory card (Figures 1-3). The memory card comprises memory space for storing the updated operational instructions. The system comprises a remote controller 400 for controlling operation of the system. The vending machine comprises a central processing unit that executes an inherent operation data transfer program (i.e. "rewriting" program or "exe." program), which is stored in advance in the memory card, to thereby transfer the operation data from the memory card to the vending machine. It is at least obvious, if not inherent, that the central processing unit directly accesses the memory space on said card to execute the operational data transfer program from the portable card.

6. Claims 2 and 3, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruskin et al. 6,644,495 in view of Matsumoto et al. 6,498,965.

Ruskin et al. '495 disclose all elements per claimed invention. However, the system is silent as to the specific of a remote controller. The remote controller, which is really another control input means for the vending system, presents no novel or unexpected result over the controller used in Ruskin et al. '495. Use of such remote controller in lieu of the controller used in the reference provides no stated problem and would be an obvious matter of design choice within the skill of the art. In re Launder, 42

CCPA 886, 222 F .2d 317, 105 USPQ 446 (1955). In addition, usage of a remote controller for controlling operations of a computerized vending system is notoriously well known, as shown by Matsumoto et al. '965. Thus, providing a remote controller to Ruskin et al. '495 system would have been obvious.

7. Claim 3, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Matsumoto et al. 6,498,965.

Matsumoto et al. '965 disclose all elements per claimed invention. However, it is silent as to the specifics of downloading operational data from the vending machine to a portable medium.

Downloading a software program onto a portable medium for back up purpose, and/or for remote data evaluation, is notoriously well known within the computer environment. It would have been obvious for a person with ordinary skill in the art, at the time the invention was made, to have downloaded the operational data from Matsumoto et al. '965 vending machine onto any type of portable medium because it facilitates at least backup means for the operational data.

Response to Arguments

Applicant's arguments filed 11/28/2005 have been fully considered but they are not persuasive.

Applicant argued that both Ruskin et al. 6,644,495 and Matsumoto et al. 6,648,965 do not disclose the transfer program on the portable device. Therefore, the references do not anticipate the claimed combination of claims 1-4. This argument is not persuasive. According to Ruskin et al. '495 and Matsumoto et al. '965, the portable

memory devices include new downloadable programs for affecting new operational procedures for the vending machines. The new downloadable programs obviously, if not inherent, contain transfer programs, i.e. ".exe." program or rewrite program.

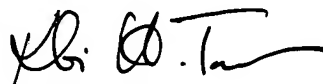
Conclusion

8. Additional references made of record and not relied upon are considered to be of interest to applicant's disclosure: see attached USPTO Form 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoi H. Tran whose telephone number is (571) 272-6919. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoi H Tran
Primary Examiner
Art Unit 3651

KHT
01/20/2005